

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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GISSELLE RUIZ,  
individually and on behalf of all others  
similarly situated,

Plaintiff

v.

BALLY TOTAL FITNESS HOLDING CORP.,  
a Delaware Corporation, and  
HOLIDAY UNIVERSAL, INC.  
a Delaware Corporation,

Defendants

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Civil Action No.  
05-11052-NMG

**NOTICE OF APPEAL**

Notice is hereby given that Gisselle Ruiz (“Ms. Ruiz”), the plaintiff in the above named case, hereby appeals to the United States Court of Appeals for the First Circuit from the Memorandum and Order [Docket No. 41], in which the United States District Court for the District of Massachusetts granted defendants’, Bally Total Fitness Holding Corp., and Holiday Universal, Inc., motion to dismiss Ms. Ruiz’s First Amended Class Action Complaint. The order and judgment were entered on the docket on July 17, 2006, making this appeal timely.

Respectfully submitted,  
Gisselle Ruiz,  
By her attorneys,

/s/ John Roddy  
John Roddy, BBO #424240  
Gary Klein, BBO #560769  
Elizabeth Ryan, BBO #549632  
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Dated: August 9, 2006

CERTIFICATE OF SERVICE

I, John Roddy, hereby certify that on this 9<sup>th</sup> day of August, 2006, I filed the foregoing document electronically. This document will be sent electronically through the ECF system to the registered participants as identified on the Notice of Electronic Filing.

/s/ John Roddy  
John Roddy